



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/799,818

03/12/2004

Iain Lawson

0435.092A

8360

23405 7590 02/09/2007
HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

02/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/799,818

Applicant(s)

LAWSON, IAIN

Examiner

Hanh V. Tran

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-23 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendments filed 8/10/2006 & 4/14/2006.
2. Upon further consideration, the restriction requirement mailed 10/18/2006 is hereby withdrawn. All pending claims 1-3, and 5-23 will be examined. Any inconvenience is regretted.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in (i) claims 1 and 11-12 of the load-infestation monitoring device located "beneath" the load-bearing deck, (ii) claim 5 of "a cover", (iii) claim 7 "a pressure-sensitive or peelable adhesive", (iv) claim 8 "a releasable mechanical fixing", (v) claims 9, 17-20, a load-condition monitoring device must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

Art Unit: 3637

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5, 6, 10, 14, 15, 16, 20, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5, line 1, "the recess" lacks antecedent basis. Claim 6, "the recess" lacks antecedent basis. Claim 10, the recitation "to release a replaceable part or disposable detection medium" is vague and indefinite for failing to clearly define the metes and bounds of the claimed invention, since it is not clear what is a replaceable part or a disposable detection medium and how it is being release. In each of claims 14 and 15, (i) "the accessible component" lacks antecedent basis, (ii) the recitation of one of the bearer members having "a recess or compartment" is indefinite for failing to clearly define whether this recess/compartment is the same or different from the cavity recited in claim 1.

Claim Objections

6. Claim 19 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. More specifically, claim 19 depends on cancelled claim 4. For the purpose of this examination, the examiner is considering that claim 19 depends on claim 6. Correction is required.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-3, 5-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,352,039 to Woods et al in view of US 2002/0078661 to Bowden et al, France 2697801 to Michel, WO 01/72601 to Norrby et al, and USP 6,079,151 to Bishoff et al.

Woods et al disclose a pallet comprising all the elements recited in the above listed claims, such as shown in Fig 1, including a load-baring deck, bearer members 12 for supporting said deck, one of said bearer members 12 being located at a side of said

Art Unit: 3637

deck and comprising a cavity accessible from an exposed end face side of the bearer member, a cover 26. The differences being that Woods et al does not disclose a load-infestation monitoring device received within said cavity, said monitoring device comprising a lure for attracting a pest of a type known to cause infestation, with a load-condition monitoring device, a visible indicator, a transparent side to allow an observer to view an interior thereof, the monitoring device being retained within the cavity by various means, the load-infestation monitoring device being integral to one of the bearer members, and the method steps recited in claims 12 and 23.

Bowden et al shows it is known in the art that load-infestation is a concern for goods during their storage and transportation. Michel further shows the idea of providing a monitoring device within a cavity of a bearer member of a pallet in order to perform a monitoring function. Norrby et al shows that the risk of deteriorated goods during storage and transportation is known and a concern in the art, and further teaches the idea of providing a package for keeping goods in a temperature decreased, preservative state by providing a transparent visible temperature/load-condition indicator. Bishoff et al further teaches the idea of providing a method and apparatus for monitoring and controlling pests, wherein the housing/lure of the monitoring and controlling device is removable. Therefore, it would have been obvious to modify the structure of Woods et al by providing a load-infestation monitoring device received within said cavity, said monitoring device comprising a lure for attracting a pest of a type known to cause infestation, with a load-condition monitoring device, a visible indicator, a transparent side to allow an observer to view an interior thereof in order to ensure any

Art Unit: 3637

infested goods will be properly identified and controlled, as taught by Bowden, Michel, Norrby and Bishoff, since the references teach alternate conventional goods supporting/storing structure, thereby providing structure as claimed. In regard to the monitoring device being retained within the cavity by various means, it would have been obvious and well within the level of one skill in the art to modify the structure of Woods, as modified above, by having the monitoring device being retained within the cavity by various means such that it can be easily removed when so is desired. In regard to the load-infestation monitoring device being integral to one of the bearer members, it has been held that the term "integral" is sufficiently broad to embrace construction united by such means as fastening. In regard to the method steps recited in claims 12 and 23, since Woods et al, as modified, discloses all the structural limitations recited in said claims, it would have been obvious and well within the level of one skill in the art to perform the method steps recited therein.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3637

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sloan and Kraatz et al, both show structures similar to various elements of applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
February 1, 2007

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Lannamai